County of Los Angeles
CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

November 4, 2011

To: Mayor Michael D. Antonovich
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Don Knabe

From: William T Fujioka
Chief Executive Officer

MOTION RELATING TO SUPPORT LEGISLATION TO REAUTHORIZE AND REFORM THE NATIONAL FLOOD INSURANCE PROGRAM; AND OPPOSE PROPOSALS THAT WOULD AFFECT PROPERTY OWNERS AND COMMUNITIES IN THE COUNTY (ITEM NO. 4, AGENDA OF NOVEMBER 8, 2011)

Item No. 4 on the November 8, 2011 Agenda is a motion by Supervisors Knabe and Ridley-Thomas to instruct the Chief Executive Office and Department of Public Works to support legislation to reauthorize and reform the National Flood Insurance Program (NFIP) with provisions such as risk-based flood insurance, mapping of flood hazards based on actual flood risk, and affordable flood insurance for residents and businesses in Los Angeles County; and oppose any proposals which would significantly increase the annual flood insurance premium or impose costly new flood insurance requirements that would affect property owners and communities in Los Angeles County.

Existing Law

In 1968, the U.S. Congress established NFIP to address: 1) the nation's flood exposure; 2) increasing costs of taxpayer-funded disaster relief for flood victims; and 3) provide financial protection to taxpayers as well as citizens in flood-prone areas. The NFIP expired on September 30, 2011 and has been temporarily extended numerous times, with the latest extension expiring on November 18, 2011.

Under existing law, the Federal Emergency Management Agency (FEMA) charges premium rates under NFIP below the amount necessary to offset the expected cost (also known as the full-risk cost or actuarial cost) for properties built before a community's Flood Insurance Rate Map (FIRM) was completed, or before 1975, whichever is later. Those properties, which make up about 20 percent of all NFIP policies, are collectively known as pre-FIRM properties. These low cost premiums, combined with widespread disasters throughout the country have resulted in an estimated $18 billion deficit for the NFIP. The NFIP is recognized by the Congress to be just as important today, as it was 40 years ago; therefore, maintaining the current NFIP framework remains an effective option. However, the driving force is implementing reforms that address existing weaknesses. The U.S. House of Representatives and the U.S. Senate are considering legislation to overhaul NFIP.

H.R. 1309 (Biggert)

H.R. 1309 (Biggert), also known as the Flood Insurance Reform Priorities Act of 2011, would authorize the NFIP through September 30, 2016, and make several changes including: 1) delay the mandatory flood insurance purchase requirement for properties recently designated as being within a Special Flood Hazard Area (SFHA) for one year; 2) allow FEMA to increase premiums by up to 20 percent per year, up from the current limit of 10 percent annually; 3) allow a five-year phase-in of flood insurance rates for certain properties in newly mapped areas not previously in a flood zone (excludes commercial, industrial properties, new homeowners, and certain other properties); 4) establish a Technical Mapping Advisory Council within one year from the enactment of this Act to develop new mapping standards; 5) direct FEMA and the General Accountability Office to conduct separate studies to assess a broad range of options for the potential privatization of NFIP; 6) prohibit FEMA from issuing flood insurance maps or updating them using a "without levee" analysis approach; and 7) allow for residential insurance premiums to be paid in installments. This measure passed the House by a vote of 406 to 22 on July 12, 2011.

Senate Banking and Finance Committee Bill

On September 8, 2011, the Senate Banking and Finance Committee approved a bill to reauthorize NFIP. **The bill language from the Committee has not been made available.** However, based on the unofficial version, the Senate bill would also authorize the NFIP through September 30, 2016, and make key changes, including: 1) allow FEMA to increase premiums by up to 15 percent per year, up from the current limit of 10 percent annually; 2) allow a four-year phase-in of flood insurance rates for certain properties in newly mapped areas not previously in a flood zone (excludes commercial, industrial properties, new homeowners, and certain other properties); 3) reconstitute a Technical Mapping Advisory Council to develop new mapping standards and consider the feasibility of private-public partnerships to increase insurance capacity and the capacity of the private insurance market to cover losses; 4) revise the definition of a Special Flood Hazard Area to include a new residual risk area for areas protected by levees, dams, and flood control, and establish a minimum annual deductible amount; and 5) allow for residential insurance premiums to be paid in installments and prohibit FEMA from offering subsidized flood insurance rates to certain policy holders.

Department of Public Works

The Department of Public Works (DPW), acting on behalf of the Los Angeles County Flood Control District (LACFCD), is the lead County agency advising the Board of Supervisors on flood control issues. As a member in the NFIP, DPW is also the program coordinator for the unincorporated areas. **DPW indicates that H.R. 1309 and the Senate version of the bill would have an overall positive fiscal impact on County property owners within newly mapped flood zones. However, there are certain provisions of the bill that may place a financial burden on Los Angeles County communities.**

In the late 1990's, LACFCD and the Army Corps of Engineers made significant improvements to the Los Angeles River and several of its tributaries, including Compton Creek, to alleviate flood risk and eliminate the need for mandatory flood insurance. As a result of major disasters in 2005, such as Hurricane Katrina, FEMA under the NFIP mandated that all levees within flood control systems be re-analyzed to verify their level of flood protection. As a result, it has been determined that levees along Compton Creek and Dominguez Channel do not meet FEMA's criteria for levee certification.

Additionally, as required under the NFIP, LACFCD studied its levees to certify that they met the Federal requirements for flood protection. Certified levees could continue to be shown on FEMA's maps as providing flood protection. The levees on Compton Creek and Dominguez Channel, although structurally sound, were found to no longer meet the Federal requirements, and therefore, were not certified. The areas behind these levees will be remapped as a flood zone. Property owners will be required to purchase flood insurance until improvements can be made to increase the levee capacity. LACFCD is currently developing improvement alternatives for these levees.

According to the Department of Public Works, an estimated 11,000 properties adjacent to the decertified levees on the Compton Creek and Dominguez Channel are expected to be affected. If H.R. 1309 is passed, residential property owners would not have to purchase flood insurance immediately because the requirement to obtain flood insurance would be suspended for the first year after their area is designated a flood zone. This provision is not offered under the Senate version of the bill, which would save the property owners about $850 annually (based on the countywide average cost of annual insurance premiums). These savings could also be extended for two subsequent years if the jurisdictions submit a request for the continued suspension, and their request is approved.

Both bills propose a phase-in of flood insurance rates for areas newly mapped as flood areas. H.R. 1309 proposes a five-year phase-in provision and the Senate version proposes a four-year phase-in provision, where most residential property owners will receive a discounted rate of an actuarial risk premium. The flood insurance rates would then gradually increase over the subsequent years to be equal to that of an actuarial rate. DPW estimates that the savings to property owners in the County from the phase-in period would be up to $11.0 million. After the proposed five-year or four-year phase-in period, the property owners adjacent to the decertified levees will not benefit from any considerable cost benefits.

According to the Department of Public Works, if either measure passes, approximately 3,150 nonresidential properties in the new flood zone would pay an estimated $2.7 million in annual premiums because nonresidential properties are not eligible for the phase-in rates which could lead to the imposition of a heavy financial burden on business owners in the County. DPW indicates that commercial and industrial properties currently excluded should be allowed to participate in the phase-in of the flood insurance rates. H.R. 1309 and the Senate version propose measures to allow FEMA to increase premiums. H.R. 1309 proposes an increase by up to 20 percent per year and the Senate version up to 15 percent per year, which would apply to all policyholders. According to DPW, this could negatively impact approximately 19,000 policyholders, including residents adjacent to the levees if the completion of any proposed levee improvements goes beyond five years.

H.R. 1309 and the Senate version propose greater emphasis on the feasibility of private-public partnerships to increase insurance capacity and the capacity of the private insurance market to cover losses. According to DPW, this could result in an increase in flood insurance premiums. While the bill does not include costs for potential privatization, the Property Casualty Insurers Association of America conducted a study that suggests private companies would need to increase the flood insurance rates by about three times higher than the current premiums. At this time it is not known if the NFIP will be privatized.

The Department of Public Works indicates that reauthorizing and reforming the NFIP would have an overall positive impact on County property owners in the anticipated flood zone areas. However, provisions of the bill limit and/or restrict participation, raise the maximum annual premiums and increases the possibility of the potential privatization of the NFIP, which could lead to the imposition of a heavy financial burden on County communities.

Because there is no Board policy to support legislation to reauthorize and reform the NFIP; and oppose proposals which would significantly increase the annual flood insurance premium or impose costly new flood insurance requirements that would affect property owners and communities, this is a matter for Board policy determination.

WTF:RA
MR:GA:sb

c: Executive Office, Board of Supervisors
County Counsel